

### **REMARKS**

Claims 1-42 are pending. Claims 1, 6, 8, 18, 22, 32, 36, 40 and 42 have been amended. Claims 5, 7, 17, 19, and 38 have been canceled without prejudice or disclaimer of the subject matter contained therein. New claim 43 has been added and is supported by paragraph 36 and Figure 4 of the originally filed specification.

Claims 1-5, 7, 17-19, and 32-35 stand rejected under 35 U.S.C. 102(b) as being anticipated by Thong (US 2002/0120300). Claim 1 is directed to a method comprising detecting atrial fibrillation, measuring hemodynamic performance during atrial fibrillation, and enabling therapy based on the measured hemodynamic performance including disabling therapy when hemodynamic compromise is not present. Thong fails to teach, among other things, disabling therapy when hemodynamic compromise is not present.

Thong discloses an apparatus for treating fibrillation including a condition detector adapted to detect a hemodynamic condition. A control means is connected to the condition detector and is adapted to prevent a delay of the time of defibrillation if the condition detector detects a predetermined hemodynamic condition. The patient is informed by a warning device that a condition of atrial fibrillation is occurring. A patient may delay the time of defibrillation. If however the patient is acutely endangered, defibrillation takes place without delay (paragraph 0005). To reiterate, the condition detector provides a signal to the control means that determines whether the control means allows a defibrillation to be delayed by the patient. The defibrillation therapy will be delivered either immediately or at a delay (paragraph 0006). The reference merely teaches allowing a patient to delay defibrillation when a hemodynamic condition is not detected. Thong does not teach or suggest disabling therapy when hemodynamic compromise is not present. As such, Applicant submits that the cited reference fails to anticipate the pending claims and requests withdrawal of the rejection.

Claims 1-31 stand rejected under 35 U.S.C. 102(b) as being anticipated by Cohen (US 5,156,148). Claims 36-42 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Cohen in view of Thong. Cohen discloses a system for treating the malfunctioning heart which receives signals representing a physiologic condition, preferably involving a hemodynamic parameter, and an electrical signal from the heart. In the event a malfunction of the heart is identified, a central processing unit supplies an enabling command signal to a malfunction correcting means (col. 9, lines 31-36). Cohen teaches that in the event no malfunction of the heart has been identified, the central processing unit may elect to continue monitoring without producing any output signals (col. 6, lines 56-61). Cohen teaches that output signals are provided to treat, among other things, stable atrial fibrillation and unstable atrial fibrillation. As such, Cohen's teachings suggest producing an output signal to a malfunction correction means when a stable or unstable atrial fibrillation malfunction is detected and not producing an output signal to a malfunction correction means when an atrial fibrillation malfunction is not detected. However, Cohen fails to teach or suggest if atrial fibrillation is detected disabling therapy when hemodynamic compromise is not present.

Accordingly, the cited references, alone or in combination, fail to teach or suggest, among other things, disabling therapy when hemodynamic compromise is not present, as stated in the present claims. For at least this reason, the rejection is improper and should be withdrawn.

Applicant respectfully asserts that the present claims are in condition for allowance and notice of the same is earnestly solicited. Should any issues remain outstanding, the Examiner is respectfully urged to telephone the undersigned to expedite prosecution. The Commissioner is authorized to charge any deficiencies and credit any overpayments to Deposit Account No. 13-2546.

Respectfully submitted,

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Date

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